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Crl.O.P.No.6408 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2023

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6408 of 2023

Raji @ Nanraj

.. Petitioner

/versus/

State rep.by Station House Officer
Town Police Station, Karaikal
Through Special Public Prosecutor
Karaikal.

(Crime No.56 of 2022)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in Crime No.56 of 2022 on the file of the Station House Officer, Town Police Station, Karaikal.

For Petitioner : Mr.R.Senthil

For Respondent : Mr.M.V.Ramachandramurthy
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.03.2023, for the offences punishable under Sections 4 of



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POCSO Act, 2012 and sections 384, 294(b), 506(ii) IPC and section 67 A of Information Technology Act, 2000 in Crime No.56 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as the defacto complainant minor XXX is that the accused had befriended her through social media/Insta gram and that he wanted to see the defacto complainant in person and thereby, they decided to meet at beach in Karaikal. During their meeting, the accused had informed her that he was in love with her and he intended to marry her and that the defacto complainant had informed him that she is a minor girl. But the accused promised her that he would marry her and later told her that he wanted to talk to her and thereby, the defacto complainant had taken him to her friend's house and while they were talking, the accused on the promise of marrying her, had committed penetrative sexual assault on her and during the act, he had also taken the intimate photographs of them and subsequently, once again during October 2021, again in a friend's house, they had sexual intercourse. Later, he had threatened the defacto complainant stating that he was having intimate photos and received a sum of Rs.5,000/- from



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her. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he is a native of Thuthukudi District, and the petitioner and the victim girl became friends through social media and on the invitation of the defacto complainant, the petitioner has come to Karaikal and during such time the defacto complainant had taken the petitioner to her friends house where they had consensual affair. He would submit that there was a dispute between them and they got separated. The petitioner has also married another woman and now the victim girl has given a complaint on 10.03.2022 after six months. The petitioner was arrested on 21.03.2022 and the petitioner is in custody for more than a year. He would submit that it is not a case of rape and it was only consensual affair and the petitioner is in custody for past more than a year and the trial has commenced and the petitioner has to engage a counsel to defend his case and he would seek for grant of bail.

4. The learned Additional Public Prosecutor would submit that it is a case where the petitioner had befriended the victim girl through



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social media and he had come to Karaikal where, he had committed penetrative sexual assault on the victim girl. Later based on the intimate photographs, the petitioner has also threatened the victim girl and received an amount of Rs.5,000/- through online transaction. He would submit that later during the course of investigation it has been found the petitioner is a married man. He would submit that the petitioner was arrested with great difficulties and if bail is granted to the petitioner there is every possibility of the petitioner absconding again. He would submit that final report has been filed and the case has been posted for examination of LW1 on 13.04.2023.

5. At this juncture, the learned counsel for the petitioner would submit that the brother of the petitioner is also ready to stand as surety to the petitioner and the petitioner is ready to abide any stringent condition that may be imposed on him.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate(Crl.Side) and perused the materials available on record including the First Information Report and the statement recorded



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from the victim girl under Section 164 Cr.P.C.

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7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel for the petitioner and that the investigation has been completed and the case has been taken up for trial and also of the fact that the petitioner is in custody for more than a year, this Court is inclined to grant bail to the petitioner with certain conditions;

8. Accordingly, the petitioner is ordered to be released on bail on this executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen thousand only)** with **two sureties out of which one surety shall be the brother of the petitioner**, each for a like sum to the satisfaction of **the learned District and Sessions Court, Karaikal**, and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



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[b] the petitioner shall stay at Karaikal and report before the Trial Court on all working day at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

12.04.2023

Speaking Order / Non-Speaking Order

Index : yes/no

Internet : yes/no

mpa



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To

- 1.The District and Sessions Court, Karaikal.
- 2.The Central Prison, Kalapet, Puducherry.
- 3.The Station House Officer
Town Police Station, Karaikal
Through Special Public Prosecutor
Karaikal.
- 4.The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA,J.

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